



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

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June 2, 2008

The Honorable Peter Courtney, Co-Chair
The Honorable Jeff Merkley, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048



Dear Co-Chairpersons:

Nature of the Report

The 2007 Oregon Legislature directed the Department of Human Services (DHS) and the Psychiatric Security Review Board (PSRB) to report their progress of implementing Senate Bill 328 when the department presents its budget rebalance plans to the Emergency Board. Senate Bill 328 added a juvenile code disposition to the juvenile panel of the PSRB for youth with developmental disabilities who successfully assert an affirmative defense of "responsible except for insanity."

Senate Bill 328 defined what the department must consider when the department designates a hospital or facility on an individual case basis for youth under PSRB jurisdiction. The bill also directed the PSRB to adopt rules defining the type of dangerous behavior that requires temporary placement of a young person with mental retardation into a secure hospital or facility and to consult with the department before issuing rules for comment and before adopting final rules. The two divisions directly involved with the implementation of Senate Bill 328 are Seniors and People with Disabilities (SPD) and Addictions and Mental Health Services (AMH).

Agency Action

Since the passage of Senate Bill 328 in July of 2007, DHS and the PSRB have continued to cooperate in accomplishing the tasks necessary to implement Senate Bill 328. DHS regularly attends and

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participates in Juvenile PSRB (JPSRB) administrative meetings and maintains frequent communication with the Executive Director. The JPSRB has held 12 administrative meetings since that time. In those meetings, the Board eagerly sought to be educated and informed by DHS staff on the various facilities and services available to youth in both the mental health and developmental disabilities systems. Presentations were made by staff of both DHS secure treatment programs. DHS and the Executive Director have communicated regarding youth throughout their court process when JPSRB jurisdiction is a potential disposition. The Executive Director and DHS staff have engaged in a number of training opportunities to educate various stakeholders about this new disposition, including presentations to the Juvenile Directors' Association, Multnomah County Juvenile Department, Polk County Juvenile case staffing group and the Community Developmental Disabilities Program Managers, to name a few.

As directed in SB 328, the JPSRB collaborated with the Department in drafting and adopting the rules that govern the operation of the juvenile panel. Extensive effort was focused in understanding each other's mission, statutory responsibilities and views on issues of concern. Once that was achieved, SPD, AMH and JPSRB reached agreement on rule content without dispute. The JPSRB has submitted the proposed rules to the Department of Justice for review and expect to complete the rulemaking process in the near future.

SPD and AMH each have designated employees who act as the primary service coordinators or liaison for youth under JPSRB jurisdiction. They attend the JPSRB hearings for their respective clients. They meet together monthly for collaborative planning, problem solving and OAR development within the Department. They also provide information regarding SPD and AMH services to local juvenile departments and consult in plans for youth who are pending probable JPSRB jurisdiction.

The JPSRB did not gain additional FTE in this process. The workload for this new endeavor has been assumed, to this point, by the existing 5 FTE who are also responsible for the adult caseload. As the JPSRB

has experienced the first few cases, there is concern that the work required for preparing and holding hearings and providing the ongoing monitoring cannot be accommodated without further resources. The reality of the number of stakeholders involved and the complexity of the legal and social issues inherent in these cases has now become increasingly clear to the PSRB staff and the juvenile panel. For example, in the first initial hearing that came before the Board, there were 129 exhibits entered in the record. For the same type of hearing for an adult, there is an average of 10-12 exhibits. The case summary prepared by staff for members of the juvenile hearing was 29 pages long. The average adult summary is 8-10 pages. Finally, the hearing itself took 5 ½ hours and the Board only addressed the issue of continued conditional release pending the continuance, as counsel asked for additional time for an independent psychological exam to be performed. That was due in large part to the number of witnesses called which also greatly exceeded the usual adult situation as the youth's juvenile counselor, child welfare worker, mental health treatment providers, mother and the youth, himself, testified. The matter has been reset to address the jurisdictional elements. All this time and effort came at the expense of the work usually done in preparation for adult hearings which have, unfortunately, suffered as a result.

The resource issue for the JPSRB was raised as a potential concern in the February, 2008 report to this committee. The Executive Director is currently working with the board's budget analyst and Human Resources analyst to review the entire PSRB staff functioning and to examine its current organizational structure to see how the agency's internal operations might be redesigned to better reflect and meet the needs of the entire agency and its employees based on the tremendous increase in workload and caseload it is experiencing at this stage of its existence. The PSRB is not the same agency it was when it was created 30 years ago. The Board plans to come before this committee in September with a comprehensive plan and request for additional resources to address this serious situation.

SPD has completed the modifications necessary for facility and campus security for youth with developmental disabilities. SPD has

completed phase- in replacement of group home capacity to serve 5 of the projected 10 new PSRB youth a year. Completion of the full 10-bed capacity funded by SB 328 is planned for the end of July, 2008. SPD and AMH have implemented the data and systems to capture the demographic information required by the 2007 budget note.

The JPSRB has completed a modification of its data base, as well, to maintain all the data on these youth that is required by the statute and by the Board, itself. Members of the juvenile panel outlined early on to the staff the information they deemed critical to possess in order to make safe and effective determinations about these youth. Staff is then charged with requesting the necessary information from the appropriate source and including it in the case summary.

The Board received jurisdiction of its first youth with mental illness in November, 2007. Since then, three more youth, of which two have developmental disabilities, have been placed under the Board and several others are in the court pipeline.

The first DD youth was ordered to JPSRB jurisdiction in April, 2008. SPD and AMH have coordinated services for this youth with complex, co-occurring needs. The youth is Caucasian, age 17, from Southern Oregon. He has been served in the metro area. SPD has worked with local juvenile departments and the PSRB on appropriate planning for two other DD youth with serious law violations. One youth, age 17.5, Caucasian, from Southern Oregon, is in jurisdiction of the JPSRB. That youth was sent directly to OSH as he was 18 at the time of his court disposition. The Board will decide at the initial hearing if this young man will remain with JPSRB or transfer to the adult panel. One youth, age 12, Caucasian, from a coastal county, is currently going through the legal process and is placed in the metro area.

AMH began serving youth in PSRB jurisdiction during July of 2007. AMH continues to serve the same two Caucasian males they were serving at last report. One young man is age 18 and living at home in the Metro area. One youth is age 17, from Southern Oregon, and is placed in the mid-valley area.

As noted above, the Board held its first hearing on May 5, 2008, for a youth with mental illness who had been placed on conditional release by the court. The Board has an initial hearing date set for two youth on June 23, 2008. The Board will hold two more hearings, one an initial and the other the continuance, on July 13. The Board will need to set a date in August for at least the older youth who was sent directly to OSH. It is the Board's expectation that it will hold at least one hearing day per month in the near term and will be required to expand that to twice a month in the not distant future to meet the statutory time frames set out in ORS 419C and to have the time necessary to afford due process and meet the juvenile panel's responsibilities in these complex cases. It is anticipated that a typical hearing day for JPSRB will contain no more than 2 to 3 hearings.

Action Requested

Emergency Board to accept report.

Legislation Affected

None.

Sincerely,



Jim Scherzinger,
Deputy Director of Finance

Sincerely,



Mary Claire Buckley, J.D.,
Executive Director

cc: John Britton, Legislative Fiscal Office
Sheila Baker, Legislative Fiscal Office
Eric Moore, Department of Administrative Services
James Toews, Department of Human Services
Bob Nikkel, Department of Human Services